



City of Rockville

MEMORANDUM

May 4, 2006

TO: City of Rockville Planning Commission

FROM: Rebecca Torma, Planner II

VIA: R. James Wasilak, AICP, Chief of Planning

SUBJECT: Proposed Zoning Text Amendment TXT2005-00217; To amend the Zoning Ordinance to permit new one--family detached homes and additional modifications in the Residential Townhouse Development (RTH) Special Development Procedure.

RELEVANT ISSUES:

The following issues were discussed at the April 19, 2006 briefing:

- Measuring maximum density permitted – Generally, residential dwellings are measured by coverage and dwelling units per acre. For the RTH Special Development Procedure, the maximum number of dwelling units is one (1) per 4,000 square feet of land. The provision for existing one-family detached homes does not have any requirements. While staff is recommending a 6,000 square feet lot area for each one-family detached dwelling, the gross density would be limited to the overall number of units in the project at 1 per 4,000 square feet.
- Density and Moderately Priced Dwelling Units (MPDUs) – Additional bonus density that is permitted with MPDUs is already established in the City Code (Section 13-5-5 [Attachment #7]). It allows up to 22 percent greater density if 15 percent of the total units, including the bonus density are MPDUs in the project. To date, no developments have taken advantage of this provision.
- Distance between one-family detached dwellings – The City's Inspection Services staff stated that all new one-family detached homes must be sprinklered in the City. No additional separation requirements are needed between buildings. In addition, the six (6) feet side yard is similar to other developments in the City and only one foot less per house than what would be permitted in an "*R-60 Qualifying Undersize Lot*." To clarify, six (6) feet is from the building to the property line and therefore, the total distance between buildings is 12 feet.

- Staff recommendation of amendments are inconsistent with neighborhood plans – Staff is recommending that any developments including RTH developments are consistent with the neighborhood plans. Even though there are three proposed RTH applications, staff tries to view the amendments in general and not for these specific projects. Staff believes that the flexibility is needed for the Mayor and Council in order to be more specific for each site.
- RTH should not be applied for the entire City – When the RTH was originally created, it was expanded to include the entire City as a transitional use between existing one-family detached homes and higher density buildings. Any RTH development must meet the location requirements already in the RTH section of the Zoning Ordinance. The amendments to the RTH are trying to allow specific sites to use the RTH when recommended in proposed or approved neighborhood plans.
- Lack of knowledge of where it can go – The RTH is not a Zoning District like the R-60 and R-30 Zones. The RTH is similar to a floating zone and when it was amended in 1997, an additional step, the “RTH Initial Application” was added to allow the Mayor and Council to make a decision if the site was considered a transitional site. The RTH Initial Application also allowed for more citizen input on where these developments can go. The RTH was designed as an outside edge between existing single family detached homes and a higher density use.
- 10-foot rear yard setback – Staff believes this is a sufficient rear yard. In conjunction with the 10-foot setback and other setback requirements, staff is recommending a 40 percent maximum coverage requirement for each detached home. In addition, currently there is an overall 40 percent landscaped area requirement for the entire site. Many of today’s developments allow for larger common open spaces, particularly in the neo-traditional style of development.

BACKGROUND

The Residential Townhouse Development (RTH) Special Development Procedure was originally adopted into the Zoning Ordinance in 1982 (T-45-81), after the planning process for the Town Center Planning Area identified a need to create a transition between the high density commercial uses and the adjacent one-family neighborhoods around the Town Center. Prior to the RTH, the only way to develop townhouses was in the R-30 Zoning District. The R-30 Zoning District allowed a higher density than a Planned Residential Unit (PRU) that would accommodate garden and mid-rise apartment buildings, but it did not allow for a great deal of control by the Mayor and Council over the site development. In addition, at the time it was created, there was pressure for office development and in order for developers to achieve a reasonable return on their property but not build offices, RTH was created.

The proposed RTH Special Development Procedure would be a transitional zone for sites in and adjacent to the Town Center Planning Area. Therefore, the regulations were established at the time of adoption and a few possible sites were identified, but the other sites could be used under the RTH process if the Mayor and Council chose to do so.

The RTH process, which is voluntary, was developed to afford the developer flexibility, to promote a suitable environment for family life and to stabilize and protect the essential characteristics of the adjacent properties and neighborhood. In addition, the new development should preserve any existing one--family detached dwellings. Prior to adoption, the RTH was expanded to be permitted throughout the City subject to certain locational criteria, not just in the Town Center as originally proposed. A total of 13 RTH developments have been constructed in the City.

In 1997 (TXT1997-0164), the RTH Special Development Procedure was revised because of concerns regarding applications filed adjacent to existing one- family neighborhoods that were not deemed appropriate. However, after looking into the RTH more closely, the Zoning Ordinance Review Group, which was comprised of present and former members of the Planning Commission and a former planning staff member, determined that the real problem with RTH was the vagueness of the locational standards, including the broad use of terms. The group recommended amending the RTH to include adding an initial application phase, removing the "isolated" sites provision, deleting permitted "public uses," improving the definition of transitional use and having a matrix which shows where the RTH as a transitional use is appropriate. The additional step of initial application allows the Mayor and Council to make a finding that a particular site is appropriate for transitional use and that the transitional land use criteria are satisfied.

DISCUSSION

Miller, Miller & Canby, on behalf of Centex Homes, has applied to revise the Residential Townhouse (RTH) Special Development Procedure. Centex is the prospective developer of the WINX property on Ashley Avenue and MCPS property on North Stonestreet Avenue. Their proposed additional language is underlined and the proposed deleted language is in [brackets]. Additional modifications suggested by Miller, Miller & Canby and by Montgomery County begin with Attachment 5. Montgomery County owns the property on Fleet Street, also subject to a pending RTH application.

Original Proposed Text Amendment

Miller, Miller & Canby submitted the original proposed text amendment to the City Clerk's Office on June 16, 2005, and the Mayor and Council authorized its filing on July 18, 2005. Note that the complete existing RTH Division of the Zoning Ordinance is included as Attachment 4. Below are the requested modifications and staff's recommendation for each.

Sec. 25-490. Development area limitations.

(b) In a residential townhouse development, the minimum project area shall be forty thousand (40,000) square feet. The maximum project area for residential townhouse development located outside of the Town Center Planning area shall be no more than ten (10) acres unless otherwise recommended by the Plan.

Staff Recommendation:

Staff has determined that this change limits the applicability of the amendment to large sites to where desired, as stated in the Master Plan, and recommends the additional language.

Sec. 25-611. Generally.

Development under this division is designed to accommodate suitable sites for townhouse[s] development that may include new one-family detached residences in and adjacent to the Town Center Planning area and in other areas of the City where there is a need for a transitional use between commercial, office, industrial, and multifamily uses and nearby existing one (1) family detached residential uses. It is the intent of the residential townhouse development procedure to provide flexibility in the design of townhouses and new one-family detached residences (if provided) and their grouping and layout within the area[s] of [this] development, to provide in such developments the amenities normally associated with exclusively one (1) family detached zoning categories, to permit the greatest possible amount of freedom in types of ownership of [townhouse] dwelling units, to promote a suitable environment for family life and to stabilize and protect the essential characteristics of the adjacent properties and the neighborhood. The preservation of existing one (1) family detached dwellings is also encouraged. Where new one-family detached dwellings are provided, the lot size may be reduced below what would otherwise be permitted in the underlying one-family residential zone. In order to accomplish the purpose set forth above, development must be approved by the Mayor and Council as hereinafter provided.

Staff Recommendation:

Staff recommends the development of transitional sites that include new one-family detached homes in addition to townhomes. The new one-family homes where none presently exist could provide a better transition to the existing one- family neighborhood. Therefore, staff recommends limiting the percentage of existing and new one- family homes in order for the RTH to remain as a transitional site.

The additional language “Where new one-family detached dwellings are provided ...” is not necessary since the language is added in other parts of the RTH and therefore, staff does not recommend it.

Sec. 25-613. Uses Permitted.

Uses permitted in a residential townhouse development shall consist of the following:

- (1) Attached one (1) family dwellings (townhouses);
- (2) Existing one (1) family detached dwellings;
- (3) New one-family detached dwelling, when recommended as appropriate in the Plan;
- [(3)] (4) Recreational facilities; and
- [(4)] (5) Home occupations as authorized in the R-60 and R-75, R-90, R-150, R-S, and R-E Zones.

Staff Recommendation:

Staff recommends adding new one- family detached homes as stated above, since they will aid in applying the RTH as a transitional use.

Sec. 25-614. Minimum Development Standards.

(a) The following applies to residential townhouse developments:

- (3) The maximum height of a dwelling shall not exceed [thirty-five feet (35)] forty (40) feet.

Staff Recommendation:

Staff recommends townhouses and one-family detached dwellings remain at the 35-foot height limit in order to be compatible with existing adjacent one-family homes. However, additional height could be given to residential dwellings unit that are interior to the property and not adjacent to or confronting existing one-family detached dwellings. The potential height increase would be up to a maximum of 45 feet for attached and detached dwellings based on the adjacent zone.

- (4) Buildings shall have a setback of not less than thirty (30) feet from public street right-of-way lines or from the boundaries of the project, except that a fifty (50) foot setback shall be required from the right-of-way line of a limited access major, or arterial highway and a setback of not less than fifteen (15) shall be required where a project boundary adjoins non-residential property.

Staff Recommendation:

Since the non-residential property is typically at a higher density and would most likely have a negative impact on the new development, staff considers this to be a detriment to the transitional use role of RTH and therefore, does not recommend this change.

(5) The minimum separation between townhouse groups (clusters) shall be [twenty-five (25)] twelve (12) feet.

Staff Recommendation:

Staff finds that the smaller minimum separation is adequate between buildings and could allow for more site design flexibility. The structures will have to comply with the building code requirements. In addition, staff recommends this change since the overall density of the site will not be increased.

(b) The following applies to one-family detached dwellings, if provided, in residential townhouse developments:

(1) The minimum lot area shall be 5,600 square feet;

Staff recommendation:

Staff recommends keeping the R-60 Zone minimum lot area of 6,000 square feet and allowing Mayor and Council to waive the standard as appropriate. While some other developments in the City have less lot area for each house, generally these are not infill developments. Staff also recommends a minimum width at the street frontage and the setback line as is done in the R-60 and R-75 Zoning Districts. These setbacks could be compatible with the existing adjacent one-family detached dwellings.

(2) The maximum lot coverage shall not exceed forty (40) percent of the lot area;

Staff recommendation:

The R-60 Zoning District permits a 35 percent maximum coverage of the lot area. The request is for an additional five (5) percent, up to 40 percent maximum coverage of the lot. Since the applicant must maintain the 40 percent landscaping requirement over the entire site, this requirement should not adversely affect the coverage of the site.

(3) The minimum front yard setback shall be twenty-five (25) feet from a public street right-of-way line;

Staff recommendation:

Staff recommends a similar front yard setback from the public right-of-way for one-family detached homes as the adjacent existing residential zone; however it could not be less than 25 feet. Similar setbacks would make the new development more compatible with the existing residential development.

A reduced setback could be permitted if located near a denser neighborhood such as Town Center or within an area of the City with smaller setbacks. The reduced setback could allow for a wider sidewalk in order to promote a more pedestrian friendly environment.

(4) A rear yard, if provided, shall be a minimum of ten (10) feet;

Staff recommendation:

Staff has determined that the one-family detached dwelling units should have a rear yard of at least 10 feet. This is a similar setback to other developments. If these homes do not have a rear yard setback, then it would be impractical to reach the 40 percent coverage requirement.

(5) A side yard, if provided, shall be a minimum of six (6) feet;

Staff recommendation:

Staff considers no side yard to be a “zero lot line” one-family detached unit. Staff is not recommending that there not be a side yard, but would recommend at least a six foot side yard, which is similar to other recently-built developments. An alternative would be an aggregate side yard between two buildings on two lots.

(6) All accessory buildings, if any must be located in the rear yard;

Staff recommendation:

Staff agrees. This is currently required by the Zoning Ordinance.

(7) At the time of initial application approval under this Division the Mayor and Council may waive or modify the minimum front and rear yard setbacks if deemed appropriate.

Staff recommendation:

Staff has determined that this should be done at the exploratory application stage and would recommend that the language be changed to reflect that. Since the RTH provision allows for flexibility in the development of sites, staff considers modifications and waivers to a site plan consistent with the premises for it. Staff would also add a provision that would allow the Mayor and Council to waive any requirements of this subsection in order to provide for more flexibility in the development of RTH sites.

(8) The Mayor and Council in approving an exploratory application may authorize an increase in the maximum number of dwelling units herein permitted where moderately priced dwelling units are included in the development in excess

of the mandatory requirements as specified in section 13.5-5 of the Moderately Priced Housing Ordinance.

Staff recommendation:

Currently, the Moderately Priced Dwelling Unit (MPDU) Ordinance permits a maximum of 22 percent bonus density on a site with at total of 15 percent MPDUs on site. This additional language does not create new requirements in the MPDU Ordinance and therefore staff has no concerns.

Sec. 25-617. Waiver or modification of screening and landscaping requirements.

(1) ***

(2) All design plans shall contain the following:

a. ***

[b. Each dwelling unit shall contain an enclosed privacy yard having a minimum depth of twenty (20) feet;]

Staff recommendation:

Staff has determined that each dwelling unit should have some kind of yard and therefore, is recommending the word “privacy” and “having a minimum depth of twenty (20) feet” be removed. The removal of the size yard requirement along with the word “privacy” is compatible with today’s developments that generally provide more communal space, while retaining a small yard for individual lots.

[c.]b. ***

Sec. 25-621. Action of Council on initial application.

To permit RTH between Industrial Uses (I-1) and one- family detached dwellings, when recommended by a Plan.

Staff recommendation:

Currently, if a property is adjacent to I-2 and I-3 Zoning Districts and one-family detached dwellings, a property may qualify. However, the WINX site (950 North Stonestreet Avenue) is adjacent to a property zoned for I-1 Industrial Uses and R-60 one-family detached dwellings. Adding “I-1” Zoning Districts with the provision that it must be “recommended by a Plan” to the chart would allow for this site to qualify while limiting applicability to other areas. Staff has determined that no other site in the City

would qualify unless recommended by the Plan, under these circumstances, therefore, staff recommends the change.

Modifications to Text Amendment Recommended by Staff

Miller, Miller & Canby and Montgomery County have submitted modifications to the proposed RTH text amendment. Since the Mayor and Council have not formally accepted modifications, they are considered suggestions. However, staff has reviewed the suggested modifications and recommends incorporating some of these suggestions. Attachment 2 shows the entire text amendment with all staff recommendations (deleted language in [brackets] and additional language underlined).

Sec. 25-1. Definitions.

Dwelling unit, attached means one (1) of a group of three (3) or more dwelling units [separated from each other by a party wall without openings extending from the cellar floor to the highest point of the roof, along the dividing lot line, and having separate front and rear or front and side entrances from the outside] which are generally joined to one another by a common party wall, a common floor-ceiling or garage, and/or connecting permanent and architecturally unified structures such as walls which structures continue the design, pattern and/or materials of the façade from one dwelling unit to another, whether or not such a group is located on a single parcel or on adjoining individual lots.

Staff Recommendation:

Miller, Miller & Canby has proposed to modify the existing *dwelling unit, attached* definition to clarify the difference between it and the multiple-family dwelling definition. Staff is recommending a modified definition above that provides more flexibility, with the following additional language that will clarify further attached dwelling units:

Each unit shall have its own outside entrance.

Sec. 25-490. Development area limitations.

(b.) In a residential townhouse development, the minimum project area shall be forty thousand (40,000) square feet. The maximum project area for residential townhouse development located outside of Town Center Planning area shall be no more than ten (10) acres unless otherwise recommended by a Plan.

Staff Recommendation:

Staff is recommending this minor modification to change the wording from “unless otherwise recommended by the Plan” to “unless otherwise recommended by a Plan.” This change will allow for the recognition of other Plans besides the Master Plan, such as neighborhood plans.

Sec. 25-613. Uses Permitted.

(5) Publicly owned or operated uses; and
[(4)] (6) ***

Staff Recommendation:

Montgomery County has proposed to allow “publicly owned or operated uses” in RTH developments. A similar wording was previously in the RTH under uses permitted, but was removed during the 1997 amendment. Staff recommends the following wording, “*Publicly owned or operated buildings and uses excluding sanitary landfills and incinerators*” be included. This wording is currently used in the Zoning Ordinance under permitted residential uses;

however, generally by special exception. Since the RTH has a formal review process that includes resident's input, staff considers this a similar type of procedure. In addition, staff has recommended additional language under Sec. 25-614. Minimum Development Standards, for the Publicly owned and operated buildings and uses. This additional language would ensure that these types of buildings and uses have to comply with the RTH development standards.

Sec. 25-614. Minimum Development Standards.

(a) ***

(4) Buildings shall have a setback of not less than thirty (30) feet from public street right-of-way lines or from the boundaries of the project, except that a fifty (50) foot setback shall be required from the right-of-way line of a limited access major, or arterial highway and a setback of not less than fifteen (15) shall be required where a project boundary adjoins non-residential property. Provided however, where the residential townhouse development is located within the Town Center Planning Area, setbacks from public street right-of-way lines shall be reduced to ten (10) feet to promote a pedestrian oriented streetscape

Staff Recommendation:

Staff does not recommend the above language, but recommends a reduced setback from abutting rights-of-way, if the street capacity has low volume and/or a wider sidewalk and the setback is compatible with the surrounding development. A smaller street with typical volumes less than 20,000 vehicles per day, such as a primary industrial or primary residential (Class II) street could permit a reduced front setback. Also, a wider sidewalk with street trees could support a reduced front setback, which would also help achieve a pedestrian oriented streetscape.

(b)

(3) The minimum front yard setback shall be twenty-five (25) feet from a public street right-of-way line; provided, however, where the residential townhouse development is located within the Town Center Planning Area, the minimum front yard setback shall be fifteen (15) feet from a public street right-of-way line to promote a pedestrian oriented streetscape;

Staff Recommendation:

See staff recommendation under Sec. 25-614.a.4.

(7) At the time of initial application approval under this Division the Mayor and Council may waive or modify [the minimum front and rear yard setbacks] any of the requirements of this subsection if deemed appropriate.

Staff Recommendation:

Staff would permit the waiver or modification of any of the setbacks, however, staff would recommend “any of the requirements of this subsection if the development will be consistent with a plan” language. Also, staff would recommend any waiver be given at the time of exploratory application rather than initial, since site plans are looked at more in-depth at this time.

Sec. 25-621. Action of Council on initial application.

To permit RTH between single-family attached and single-family detached, multifamily (R-20 or greater), Commercial Use, Office Uses and Transitional Office Uses.

Staff Recommendation:

The applicant’s proposal would increase the RTH use in the City. Therefore, staff has proposed “where one-family attached development is recommended as suitable in the relevant master plan” as additional language and deleting “and is employed” language. These changes would limit the use of RTH developments.

Attachments:

1. Proposed Text Amendment and Application by Miller, Miller & Canby
2. Staff Recommended Text Amendment
3. Existing RTH Division of Zoning Ordinance
4. Summary of Recommended Modifications
5. Recommended Modifications from Miller, Miller & Canby
6. Recommended Modifications from Montgomery County
7. Moderately Priced Dwelling Unit Requirements